

**City of Beverly
Special City Council Meeting
Public Meeting Minutes
Monday, February 13, 2023, 7:00pm
City Council Chambers, 191 Cabot St.**

Julie Flowers, City Council President, called the meeting to order at 7:00pm. City Clerk, Lisa Kent, took attendance by roll call.

Members Present: Hannah Bowen, Steven Crowley, Kathleen Feldman, Scott Houseman, Todd Rotondo, Matthew St. Hilaire, Estelle Rand, Brendan Sweeney, Julie Flowers

Members Absent: None

Houseman led the pledge of allegiance.

The motion to go out of agenda order and take Reports of Committees first was made and seconded. A vote was taken, and the motion carried (9-0).

Reports of Committees

Public Services

Order #013-Reappointment-Mr. Sean Leach, 63 Kernwood Avenue to serve as a Mayoral Appointee to the Clean Energy Committee

A motion to approve was made and seconded. A vote was taken, and the motion carried (9-0).

Order #328-Councilor Bowen-Regarding Storm Water Management

A motion to receive and place on file was made and seconded. A vote was taken, and the motion carried (9-0).

Legal Affairs

Order #276-Mayor's response to Order 75A proposed amendments to 1995 Beverly Home Rule Charter

A motion to approve was made and seconded. A vote was taken, and the motion carried (9-0).

Order #276A-Solicitor Williams-Regarding Order #276 Mayor's Edits Incorporated into Draft Charter Approved by the City Council Order #75A

A motion to receive and place on file was made and seconded. A vote was taken, and the motion carried (9-0).

Order #279-Proposed Zoning Ordinance Amendment of various articles related to building heights and inclusionary zoning

Flowers invited councilors to make any general statements.

St. Hilaire thanked all those that engaged in these conversations. St. Hilaire stated last September he filed to lower the maximum building heights to three stories after concern of back to back announcements in June which were the closure of the bridge and the announcement of a five-story mixed use project on Cabot Street. In the past decade, we have seen 5-6 stories on Rantoul Street, but this summer the first one for Cabot Street was presented. To those that say the proposal was too simplistic, it was pretty successful because it sparked a conversation and that was the goal. St. Hilaire stated he is proud that Beverly has been a leader on housing, but Beverly cannot alone solve a housing crisis. Major roads are in complete disrepair. The City

needs a five year maintenance plan. St. Hilaire also expressed concerns about the capacity of public safety and schools. We need to determine how much growth we can responsibly support. St. Hilaire stated he supports reducing maximum building heights across the City because it is the best way to eliminate new large-scale, high-priced apartment complexes that are adding hundreds of units of housing at a time. St. Hilaire stated he doesn't think we have an understanding yet of the impact this type of development is having on the City, and we haven't properly planned to address concerns that residents are expressing across the City. We can't continue to build and build and build without addressing these issues.

Bowen agreed with Councilor St. Hilaire that these are big questions and complex system questions. We need to be addressing the real concerns that we are hearing from residents. Bowen stated she is hearing about three or four big topics from what has been talked about since September or really even before. There are some good solutions that balance those three or four big goals and that are captured in the masterplan, which was a very comprehensive process focused on balancing competing interests. Unfortunately, what is in front of the Council tonight is not one of the biggest recommendations coming out of that master plan, except the inclusionary zoning element. Bowen stated she is looking forward to supporting that. Bowen stated she is not prepared to support the new restrictions on height as they are proposed. It is a really complex issue. These proposals are too limited to work. Bowen stated the first of the issues she has heard is the desire to protect and preserve the architecture and social strength of downtown and that main streets feeling. Bowen stated she has not heard how restricting height actually solves that problem. There could be a very ugly out-of-place building at 40 feet. In fact, some of the added density is what has allowed our main streets to thrive. The small businesses and downtown residents are telling us that. There are policies that meet that goal of preservation without sacrificing the density that helps keep the city alive. That includes things like more detailed design standards, reforms to our Design Review Board and giving them more tools, and policies and incentives for adaptive reuse. The second area is concerns over congestion, traffic and parking. Bowen stated she does not see how reducing height alone solves that problem. It could make it more difficult because a building can have a parking garage on lower levels. If we want to focus on car use and space, promoting mixed use development and walkable neighborhoods all over the city in the design standards is a zoning tool that we can use. The next concern is around affordability. Limiting in-fill density where we already have infrastructure is not a great way of providing affordability. There are people in the city who would like to prevent the population from growing at all and are willing to sacrifice affordability and housing production. Bowen stated she is not willing to make that sacrifice. We are already growing and changing and need to manage that and not just give up. There are policies that can help tackle housing production such as the accessory dwelling unit ordinance, design standards, a great estates ordinance for adaptive reuse of large properties that are underutilized, and strengthening inclusionary zoning. It's a real concern to want to make sure we have infrastructure to support our community, but more residents, more thriving community, gives us more tools to provide those public services effectively. It is a long-term planning challenge, not just a zoning challenge. The Council's role in the budget process and capital improvement plan process is where we can make sure we are providing services. It is not a zero sum game. We can't make everyone happy, but we can do better than what's proposed. Bowen stated instead of passing a height restriction she would like to get design standards over the finish line, start an accessory dwelling unit ordinance and start some other next steps.

Rotondo asked if there is a timeline on the design standards process.

Director of Planning and Development Darlene Wynne stated design standards will be done a little differently by having at least one public meeting before bringing it as a formal recommendation because of the level of complexity and to get more consensus before preparing the language for the ordinance amendment. Wynne stated the hope is to do the public part in the spring then most likely the ordinance amendment would come early in the fall.

Rotondo stated that he feels these recommendations are a good compromise. There are some projects out there that can be built by right because they have already been filed.

City Solicitor Stephanie Williams stated under MGL Chapter 40A Section 5 there is a provision that states, "No proposed zoning ordinance or by-law which has been unfavorably acted upon by a city council or town meeting shall be considered by the city council or town meeting within two years after the date of such unfavorable action unless the adoption of such proposed ordinance or by-law is recommended in the final report of the planning board." This could be an issue. A proposal can't be voted down tonight then tweaked and brought back in six months.

St. Hilaire stated the time to act is now. We have to vote on what's in front of us. We may never have a perfect proposal. They say in government sometimes, "Don't let the perfect be the enemy of the good." Let's take action while we can and we can always take more action in the future.

Houseman stated that tonight the Council is focused on housing goals and goals for the character of Rantoul Street and Cabot Street. The debate around height and whether it is an appropriate device to address the housing crisis and a low-carbon energy future is misplaced. It has resulted in some wrong answers to the right questions. We will need to accept and embrace change. There are multiple votes to take tonight, and different areas of the city should have different answers. Two factors the Council is going to vote on tonight will make it harder for developers to make their numbers work, which are increasing the affordable housing requirements and changing building height limits. Houseman stated he considers much of what the Council will vote tonight to be place holders until design standards. There are many ways to address the problems, but tonight there are specific proposals to focus on.

Bowen stated she would like to respond to what would happen if the Council voted against height restrictions tonight and what a temporary/quick-win approach to zoning means. If the Council votes for something, it becomes part of zoning; it is not temporary. Bowen said don't vote for something that doesn't meet your goals or the city goals, just because it is a temporary fix. Bowen reassured everyone that while voting against a height restriction tonight might mean that same height restriction can't be built into design standards, we can still build great design standards. It is important to know that state law restriction and to understand the constraints that we are under, but those constraints should not force us into a poor decision. Bowen stated she does not think this proposal is good. Bowen said she doesn't think it will solve the problems we have and will create new ones. The height restrictions tell people that we don't want them here or don't want them here until we can figure out how we want it to look.

Rand expressed that she is excited to support design standards. They are overall a much better solution than even these amendments, not because these amendments are too much of a compromise but because the design standards will address zoning across the city and not just on Cabot and Rantoul. We have been very focused on how to limit development in Ward 2 but not on how to increase it around the City. That's what we need to do, and this doesn't address that.

Rand stated she is ready for design standards, accessory dwelling units and working on creating appropriate density across the City. There's fatigue with development and infrastructure improvements, but overall we are building a really beautiful community. Rand stated she is supportive of these amendments, especially the inclusionary zoning.

Feldman stated that even if she votes to approve the height restriction portion, it would be in an effort to further the discussion and continue the work in expectation of those design review standards, and not in an effort to check a box. Feldman stated she is eager to address a multitude of zoning and planning issues in Ward 5 to distribute it more evenly throughout the City.

Feldman stated she is highly in favor of ADUs which is a great solution for Ward 5 and her expectation is that these concerns will be more thoroughly addressed in the next year.

St. Hilaire stated he is in support of continuing the conversation. Let's keep moving forward.

Sweeney stated this is a dynamic process. These votes will have a long term impact on the city, but these are establishing that baseline community standard, then we will work on the specifics of the characteristics of buildings we would like to see. This will be a first step not a final step.

Crowley stated he is also looking forward to design standards and continuing the conversation of where we go from here.

Flowers moved on to the individual pieces of the proposed zoning ordinance amendments.

The following motion was made and seconded:

(1) Approve the proposed amendments that would effectuate the elimination of the "Tall Building Overlay District" by deleting the reference in Sections 300-40D(2)(f), 300-40D(3)(f), and 300-40D(5)(f) which allows a building height of up to 75 feet by Special Permit in a defined area of the CC District; delete Section 300-40G(2) and hold as Reserved; and eliminate reference in Section 300-22A(2) and Section 300-40I to the associated Tall Building Design Guidelines.

Bowen stated she values the open conversation and sharing of ideas. Bowen reiterated that while the new information adds a layer of intensity to this conversation, no one should feel intimidated by the constraints. Bowen stated if you feel like this is not the best proposal, we can tackle that within two years. They are not mutually exclusive proposals. We would lose making the exact same proposal again within two years, but we can put other proposals forward to address the same underlying issues. Bowen recommended not voting out of a sense of panic.

Sweeney stated a vote on height will not address stylistic concerns, but what has been interesting in the discussion of these proposals, is when Ms. Wynne stated how much has already been done, it seems there are not many parcels that would be affected by it. It does not seem like this vote to remove the Tall Building Overlay District would prohibit much future housing.

Houseman stated he still felt unclear about the advice from the solicitor and that he wanted to make sure his vote does not preclude anything in the design standards that would address height.

Bowen stated if a proposal tonight is voted down, there are still ways to meet the same goals without bringing back the same proposal.

Williams said generally speaking as long as it is not cutting and pasting the language and building it out with other stuff that would be a defensible process to follow.

St. Hilaire stated he will be voting in favor. What's before us is a pretty easy decision and a compromise.

A vote was taken, and the motion carried (7-2, Bowen and Houseman opposed).

The following motion was made and seconded:

(2) Approve the proposed amendments that would reduce the maximum allowable height of buildings in the Cabot Street area by (1) adding in Section 300-6A Designation, "CC2" and "Central business Cabot", (2) adding a new Section 300-6C creating a new CC2 Subdistrict as shown on Map 22-056 Zoning Proposal Overview, and (3) updating the official City Zoning Map accordingly; changing "CC" to "CC/CC2" throughout the Ordinance when it refers to both districts together; and amending the maximum building heights in Section 300-40D Building and Area Requirements to read as follows:

(1) Commercial uses, residential uses or combined commercial/residential uses on CC-zoned lots with side and/or rear yards abutting a residential zoning district:

(f) Maximum building height: In CC District, 55 feet when "RHD" is the abutting residential district. In CC2 subdistrict, 45 feet with no more than 4 stories. In both CC and CC2, 35 feet when "RMD" or "R6" is the abutting residential district.

(2) Residential uses which do not abut a residential zoning district:

(f) Maximum height: In CC District, 55 feet. In CC2 subdistrict, 45 feet with no more than 4 stories.

(3) Commercial uses which do not abut a residential district:

(f) Maximum height: In CC District, 55 feet. In CC2 subdistrict, 45 feet with no more than 4 stories.

(4) Commercial or residential uses within structures existing at the time of the adoption of this chapter:

(f) Maximum height: In CC District, 55 feet. In CC2 subdistrict, 45 feet with no more than 4 stories.

(5) Combined commercial/residential uses on lots with side and/or rear yards which do not abut a residential zoning district:

(f) Maximum building height: In CC District, 55 feet. In CC2 subdistrict, 45 feet with no more than 4 stories.

Houseman stated his hope is that this motion will fail and a new motion will be made which takes the first paragraph of this and breaks it into four parts instead of three, so that the last

sentence that starts with “amending the maximum building heights” will be considered separately from whether or not the Council wishes to adopt a CC2 zone. Houseman stated he has a lot of amendments to how the CC2 zone could be adopted or changed, if it will even be accepted. Houseman asked that the CC2 zone conversation be separated from the building height discussion. It would not make sense to spend time going through proposed amendments.

Rotondo and St. Hilaire asked for more information.

Houseman spoke about the two filings with proposed amendments (#279A and #279B).

Rotondo withdrew his motion.

Bowen asked a procedural question. If the Council voted to create the CC2 district and then doesn’t have a majority to define what is in that CC2 district, what does that mean for the zoning ordinance?

Flowers asked if another public hearing would be triggered if any amendments were adopted on the floor.

Williams stated that generally speaking it sounds like a new public hearing would not be required. It would be if there was an amendment to expand the area of these proposed amendments. Councilor Bowen has a fair question though, and that is likely why the motion is written the way it is.

Flowers asked if Williams would advise it be taken as written.

Williams stated the Council could do what Councilor Houseman suggested but would need to go back and reconsider the vote if the Council cannot get six votes to decide what will be in the CC2 district.

Rotondo stated he does not want to rescind his motion and would like to approve this as it was stated. Rotondo made his original motion again to approve as sent from Legal Affairs. The motion was seconded.

Sweeney stated he is in favor of the CC2 district as these really are two distinct corridors.

St. Hilaire motioned to amend the main motion by replacing language to change 55 to 45 feet and 45 to 35 feet. Houseman seconded.

Housman stated he would propose three different ways the Council could potentially think of height limits in the CC2, which means there would be four options on the table. One option is the proposal from the administration. Houseman stated he proposed three ways of amending that which is in his filings [Orders #279A and #279B]. One is to amend that so everything in CC2 is three stories or 35 feet. Another is to only adopt a 35 feet restriction within the Core Pedestrian Area. The fourth option is to do that but also allow for the Planning Board to use a special permit within the 35 feet district to allow a special permit for 45 feet, if there was an increase in the affordable housing percentage for larger projects. Houseman proposed a conversation around the Core Pedestrian Area.

Flowers paused Councilor Houseman and suggested taking a vote on Councilor St. Hilaire’s amendment so as to focus on one amendment at a time.

St. Hilaire withdrew his motion to amend since Councilor Houseman's proposed amendment sounded more detailed.

Houseman stated the Core Pedestrian Area is already defined in the ordinance. The area is the lots that front Cabot Street and runs from about Fibber McGee's to Super Sub. Houseman stated his amendment is that within the CC2 Core Pedestrian Area those would be limited to three stories.

Houseman motioned to amend the motion on the floor by adding, "In the Cabot Street Core Pedestrian Area, 35 feet with no more than 3 stories" to the end of sections (2)(f), (3)(f), and (4)(f). The motion was seconded for discussion.

Sweeney asked about the special permit criteria to foster increased affordability.

Houseman stated he could make that as a separate motion.

Wynne asked if Councilor Houseman intended for the amendment to apply to (5)(f) as well.

Houseman confirmed he wanted the motion to apply to (5)(f) and apologized for missing it.

Wynne stated to clarify, this would affect both the Atomic parcel and the Dollar Tree parcel which front on Cabot Street. The building in the back is on a parcel that fronts on Cabot Street and is not a separate parcel. Wynne also clarified that the Core Pedestrian Area is both sides of the street, not just one.

Sweeney stated he thinks there is some benefit to starting with a 45 foot, four story consistent standard. Ideally through the design standard process, we will further detail specific provisions in addition to height that would preserve the character of buildings on Cabot Street. Sweeney stated he is concerned that starting with a more complicated baseline prior to reviewing and approving some form of design standards might have the unintended effect of being pigeon-holed.

Bowen stated she feels similarly as she expressed at the beginning that the height restriction doesn't really address the concerns Bowen stated she plans to vote against these, although she doesn't disagree about keeping that historic character.

St. Hilaire stated he plans on voting in favor and would have preferred a broader restriction in the CC2 district. St. Hilaire agreed on the unique asset on Cabot St. and in that area. St. Hilaire stated he does not think it is appropriate to have a large apartment complex in the middle of Cabot, of the arts district and of the historic district.

Feldman stated she cannot support the amendment. It is an overreach and an unnecessary complication. This will be part of the design review process.

Rotondo stated there are existing buildings like the Odd Fellow building and YMCA building that have good height to them and fit the design characteristics. It's about keeping consistency, and this seems a little too complicated.

Bowen stated she just wants to be really clear about what we're talking about. If we limit heights on Cabot St., we are limiting housing downtown and having a less active main street. Bowen stated she is not comfortable voting for those limits.

Houseman stated the primary concern he would have to his own suggestion is that design standards are coming and whether it would in some way compromise the ability to fashion a more nuanced, tailored way of addressing the speciality of the district and the facade on Cabot

Street. Houseman stated he only wants this one half mile area to be limited. Houseman asked the planning director if this would affect design standards and if the intention is to provide a design standard to address the specific area mentioned.

Wynne stated the design standards do not address any specific neighborhood at the moment because the tiers that apply have not been set. Wynne stated that some of what Councilor Houseman is speaking of may not be achieved through zoning but through a historic method. Wynne stated that to her knowledge there is nothing in it right now that talks about preserving a certain district, but that doesn't mean we couldn't come up with something more specific, or it may need to be separate from design standards.

Houseman asked if this administration would commit to doing this and stated he wants it on the record. Houseman asked Mayor Cahill if he recognizes the special nature of this part of Cabot St. as distinct. Historic designation does not protect those buildings. Houseman also asked if Mayor Cahill has a commitment, to the degree possible tonight, to making sure the design standards recognize that area and provide protection.

Cahill stated there is a lot that's special about this community including its architecture. We have spent a lot of time with some great experts over the past couple years looking at the design standards and will have a public process and see where it leads.

Feldman stated she thinks this is getting really far afield and urged for a vote on what is in front of the Council.

St. Hilaire stated the Council needs to act.

A vote was taken, and the motion to amend the main motion failed (2-7, Houseman and St. Hilaire in favor).

A vote was taken on the main motion as it came out of the Committee on Legal Affairs, and the motion carried (8-1, Bowen opposed).

The following motion was made and seconded:

(3) Approve the proposed amendment to Section 300-37D(9) reducing the maximum allowable height of buildings in the residential district (RHD) between Cabot Street and Rantoul Street from 55 feet to 40 feet

Sweeney stated the Planning Board proposal was to allow 45 feet up to four stories in the RHD district. The administration's original proposal was 40 feet with no more than three stories. Legal Affairs recommended the administration's proposal.

A vote was taken, and the motion carried (7-2, Bowen and Flowers opposed).

Wynne clarified on the upcoming (4d) it should read, "replace 'Essex County Registry of Deeds' with 'Southern Essex District Registry of Deeds'" to correct a scrivener's error.

The following motion was made and seconded:

(4a) Not approve the proposed amendments to Amend Article XV, Affordable Housing

(“Inclusionary Housing Ordinance”), as follows:

In Sections 300-103A, 300-103A(1), 300-103A(2), 300-103A(3) 300-103C, and 300-104(C), to change “six (6)” to “four (4)”

Sweeney noted that the original proposal from the administration was to reduce that from six to four and confirmed that with this vote the Council would be affirming the vote of Legal Affairs and leave it at four.

Flowers confirmed.

Rotondo commented he felt that changing this from six to four was something that would hurt a smaller housing project not a large developer.

A vote was taken, and the motion carried (9-0).

The following motion was made and seconded:

(4b) Approve the proposed amendments in Section 300-104A(1) and 300-104(C) change “80%” to “60%” and delete Section 300-104A(2) and 300-104A(3) holding both as Reserved.

A vote was taken, and the motion carried (9-0).

The following motion was made and seconded:

(4c) Approve the proposed amendments to Delete Section 300-108A(1) and hold as Reserved and in Section 300-114C, delete “or off-site”.

A vote was taken, and the motion carried (9-0).

The following motion was made and seconded:

(4d) Approve the proposed amendments in Sections 300-114C(1) and C(2) and Section 300-114E, replace “Essex County Registry of Deeds” with “Southern Essex District Registry of Deeds”

A vote was taken, and the motion carried (9-0).

Order #279A-Councilor Houseman-Regarding Order #279, Proposed Amendments to the Zoning Ordinance

A motion to receive and place on file was made and seconded. A vote was taken, and the motion carried (9-0).

Order #279B-Councilor Houseman-Order #279, Proposed Amendments to the Zoning Ordinance

A motion to receive and place on file was made and seconded. A vote was taken, and the motion carried (9-0).

Order #279C-Recommendations from the Beverly Planning Board regarding proposed zoning changes pertaining to creation of a CC2 subdistrict on Cabot Street; height restrictions in proposed CC2 subdistrict; proposed height restrictions in the RHD district on streets between Cabot and Rantoul Streets; removal of the tall building overlay district on Rantoul Street; and changes to Beverly's inclusionary zoning

A motion to receive and place on file was made and seconded. A vote was taken, and the motion carried (9-0).

Unfinished Business from a Previous Meeting

Order #237-Councilor St. Hilaire-A Proposed zoning ordinance amendment to limit new building projects in the City of Beverly to three stories

St. Hilaire withdrew Order #237.

A motion to adjourn was made and seconded. A vote was taken, and the motion carried (9-0).

The meeting adjourned at 9:58pm.